

E-Filed 5/28/2010

MCELROY, DEUTSCH, MULVANEY &
CARPENTER, LLP
ROBERT P. DONOVAN (*pro hac vice*)
rdonovan@mdmc-law.com
LEWIS H. GOLDFARB
(*pro hac vice* to be filed)
lgoldfarb@mdmc-law.com
Three Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
Telephone: (973) 622-7711
Facsimile: (973) 622-5314

SEDGWICK, DETERT, MORAN &
ARNOLD LLP
KEVIN J. DUNNE Bar No. 40030
kevin.dunne@sdma.com
ANDREW J. KING Bar No. 253962
andrew.king@sdma.com
One Market Plaza
Steuart Tower, 8th Floor
San Francisco, California 94105
Telephone: (415) 781-7900
Facsimile: (415) 781-2635

Attorneys for Defendants
HORNELL BREWING COMPANY, INC.
d/b/a FEROLITO, VULTAGGIO & SONS,
INC., BEVERAGE MARKETING USA,
INC., ARIZONA CORP., INC., and PALM
BEACH BREWING CO., LLC.

BAKER LAW PC
G. RICHARD BAKER Bar No. 224003
richard@bakerlawpc.com
2229 First Avenue North
Birmingham, Alabama 35203
Telephone: (205) 241-9608
Facsimile: (205) 449-0050

JACKSON & TUCKER PC
JOSEPH L. TUCKER (*pro hac vice*)
josh@jacksonandtucker.com
2229 First Avenue North
Birmingham, Alabama 35203
Telephone: (205) 252-3535
Facsimile: (205) 252-3536

Attorneys for Plaintiffs
LAUREN RIES and SERENA ALGOZER

(Additional counsel listed on signature page)

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LAUREN RIES and SERENA ALGOZER,
individuals on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

HORNELL BREWING COMPANY, INC.,
BEVERAGE MARKETING USA, INC.,
ARIZONA CORP., INC., PALM BEACH
BREWING CO., LLC, FEROLITO,
VULTAGGIO & SONS, INC.

Defendants.

CASE NO. CV 10-01139 JF

**STIPULATION AND [PROPOSED]
ORDER CONTINUING INITIAL CASE
MANAGEMENT CONFERENCE AND
SETTING NEW HEARING DATE FOR
DEFENDANTS' MOTION TO DISMISS
[AS MODIFIED BY THE COURT]**

CASE NO. CV 10-01139 JF
STIPULATION AND [PROPOSED] ORDER CONTINUING INITIAL CASE MANAGEMENT CONFERENCE
AND SETTING NEW HEARING DATE FOR DEFENDANTS' MOTION TO DISMISS

1 TO THE COURT, AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:
 2 THIS STIPULATION is entered into by and between plaintiffs, Lauren Ries and Serena Algozer
 3 ("Plaintiffs"), and defendants Hornell Brewing Company, Inc. d/b/a Ferolito Vultaggio & Sons,
 4 Inc., Beverage Marketing USA, Inc., Arizona Corp., Inc. and Palm Beach Brewing Co., LLC
 5 ("Defendants"), collectively referred to herein as the "Parties," by and through their attorneys of
 6 record and pursuant to Civil Local Rules 6-2, and 7-12.

7 WHEREAS, in its March 17, 2010 Order Setting Initial Case Management Conference
 8 and ADR Deadlines, the Court set the following dates and deadlines:

- 9 1. May 25, 2010 – Last day to:
 - 10 a. Meet and confer re: initial disclosures, early settlement, ADR process
 11 selection, and discovery plan;
 - 12 b. File ADR Certification signed by Parties and Counsel; and
 - 13 c. File either Stipulation to ADR Process or Notice of Need for ADR Phone
 14 Conference;
- 15 2. June 8, 2010 – Last day to file Rule 26(f) Report, complete initial disclosures or
 16 state objection in Rule 26(f) Report;
- 17 3. June 8, 2010 – Last day to file Joint Case Management Statement; and
- 18 4. June 15, 2010 – Initial Case Management Conference.

19 WHEREAS, on May 5, 2010, Defendants filed a motion to dismiss Plaintiffs' complaint
 20 pursuant to Federal Rule of Civil Procedure 12(b)(6);

21 WHEREAS, on May 6, 2010, the Clerk of the Court issued a Notice of Impending
 22 Reassignment to a United States District Judge, and continued the date of the Initial Case
 23 Management Conference to June 18, 2010 at 10:30 a.m. before the Honorable Judge Jeremy
 24 Fogel, and directed the Parties to submit a Joint Case Management State on June 8, 2010;

25 WHEREAS, on May 7, 2010, the Court issued a Reassignment Order that reassigned this
 26 case to the Honorable Judge Jeremy Fogel for all further proceedings, vacated the hearing date
 27 for Defendants' pending motion to dismiss, and directed the Parties to renote a new hearing
 28 date before Judge Fogel;

///

WHEREAS, the Parties, through their respective counsel, have met and conferred and have agreed that in the interests of judicial economy and case efficiency they wish to continue the Initial Case Management Conference to the same date as the renoticed hearing on Defendants' motion to dismiss;

NOW, THEREFORE, pursuant to Civil Local Rules 6-2 and 7-12, the Parties jointly request and HEREBY STIPULATE that the case management dates and ADR deadlines be modified as follows:

1. The last day for the Parties to meet and confer regarding initial disclosures, early settlement, ADR process selection, and a discovery plan is continued to **June 25, 2010**;
2. The last day for the Parties to file the ADR Certification and either a Stipulation to ADR Process or a Notice of Need for ADR Phone Conference is continued to **June 25, 2010**;
3. The Parties shall file a Joint Case Management Statement no later than **July 9, 2010**.
4. The Initial Case Management Conference ~~Statement~~ is continued to **July 16, 2010** at **10:30 a.m.**
5. The Parties shall exchange their initial Rule 26(a)(1) disclosures on or before **July 30, 2010**.

The Parties further jointly request and HEREBY STIPULATE that the hearing on Defendants' motion to dismiss is renoticed for, and shall be held on **July 16, 2010 at 9:00 a.m.**

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:

DATED: May 21, 2010

SEDGWICK, DETERT, MORAN & ARNOLD LLP

By: /s/ Andrew J. King

Kevin J. Dunne (Bar No. 40030)
Andrew J. King (Bar No. 253962)

MCELROY, DEUTSCH, MULVANEY & CARPENTER,
LLP

By: /s/ Robert P. Donovan

Robert P. Donovan (*pro hac vice*)
Lewis H. Goldfarb (*pro hac vice* to be filed)

Three Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
Telephone: (973) 622-7711
Facsimile: (973) 622-5314

Attorneys for Defendants
HORNELL BREWING COMPANY, INC. d/b/a
FEROLITO, VULTAGGIO & SONS, INC.,
BEVERAGE MARKETING USA, INC., ARIZONA
CORP., INC., and PALM BEACH BREWING CO.,
LLC.

DATED: May 21, 2010

BAKER LAW PC

By: /s/ G. Richard Baker (with permission)
G. Richard Baker (Bar No. 224003)

JACKSON & TUCKER PC
Joseph L. Tucker (*pro hac vice*)
2229 First Avenue North
Birmingham, Alabama 35203
Telephone: (205) 252-3535
Facsimile: (205) 252-3536

WILENTZ GOLDMAN & SPITZER P.A.
Kevin P. Roddy (Bar No. 128283)
Phillip A. Tortoreti (*pro hac vice* to be filed)
Daniel R. Lapinski (*pro hac vice* to be filed)
Suite 900 Box 10
Woodbridge, New Jersey 07095
Telephone: (732) 636-8000
Facsimile: (205) 449-0050

DL LAW GROUP
David D. Lilienstein (Bar No. 218923)
345 Franklin Street
San Francisco, California 94102
Telephone (415) 271-7169
Facsimile (415) 358-8484

Attorneys for Plaintiffs
LAUREN RIES and SERENA ALGOZER

[PROPOSED] ORDER

Pursuant to the stipulation of the parties, and good cause appearing therefor,

IT IS SO ORDERED.

DATED: May 28, 2010



THE HONORABLE JEREMY FOGEL
UNITED STATES DISTRICT JUDGE